



**Town of Hamilton Planning Board  
PO Box 429, 577 Bay Road  
Hamilton, MA 01936  
978-468-5584**

## **Minutes**

**March 19, 2013**

**Welcome** – Chairman Peter Clark opened the meeting at 7:30 PM. Planning Board members Rob McKean, Ed Howard, Rick Mitchell, Brian Stein, Joe Orlando and Claudia Woods were present. Planning Coordinator, Kristine Cheetham was also present.

### **Public Hearing : Scenic Roads**

Chairman Clark opened the public hearing by reading the legal notice. The owners, Jonathan Petersen and Alison Day, of 33 Waldingfield Road made a presentation to the Board regarding their interest in removing a portion of a stone wall along Waldingfield Road. They explained that the current driveway opening on Highland Road is roughly 10' wide and has difficult sight distances. They are proposing to install some type of gate at the opening along Highland Road. The intent is to maintain the opening for safety purposes as it is near the fire hydrant for the property. The applicants plan to hire a mason for work on the new opening and other repairs that are needed to maintain the integrity of the stone wall.

E. Howard voiced concern regarding the status of the stone wall. Although it is a wall with mortar in it, he would prefer to see it in more of a natural state. The applicants assured him that they plan to work with a professional mason for the improvements.

R. Mitchell made a motion to close the public hearing.

J. Orlando seconded the motion.

All voted in favor.

**Release of Covenant:** 641 Bay Road – Applicant is requesting a partial release of the covenant for work to be done on 641 Bay Road.

Attorney Kroesser gave an overview of the decisions regarding the roadway at 641 Bay Road. He clarified that the private way leading to the estate has been in existence prior to the adoption of the zoning bylaws. Although the applicant could have applied for an Approval Not Required plan in 1997, they opted for the subdivision. A covenant was placed on the property to secure a few roadway improvements such as a vehicle turnaround, a water main extension and a fire hydrant. These details are shown on the approved plan and referenced in the covenant. The applicant is seeking a way to complete the improvements to the roadway and to release the covenant for the purpose of a new purchase and sale agreement.

The Board also received some information on the issue from town counsel. In response to questions at a previous meeting, the Board learned that the language in the covenant stated that the original subdivision will not be valid if the roadwork was not completed within a specified time. Because the work is not complete and no time extensions were filed, the subdivision of the land at 641 Bay Road into three lots was determined to not be valid. Therefore, the ANR of January 2013 that created six lots at this location is not valid as it was premised on the original subdivision decision.

K. Cheetham asked town counsel what course of action should follow next regarding a new application for the property. She is waiting for a response as to whether the applicant should submit an ANR or a new subdivision filing. C. Woods asked that the applicant submit a new filing to clear up the paper trail.

J. Orlando tried to resolve the covenant issue by recommending that the applicant apply for a time extension and re-submit the partial release of the covenant with the new filing. He also felt that the substitution of lot 6 for lots 2 & 3 was reasonable. He made a motion to go forward with this action.

C. Woods seconded

All voted in favor

### **New/Old Business**

- 641 Bay Road – Right of First Refusal Sub-Committee Report – P. Clark and C. Woods provided the Board with a brief update on the right of first refusal for the property at 641 Bay Road. They explained that the committee was reviewing the town's opportunities for use of the land. The relocation of a school has been ruled out at this time due to timing, financing and planning. The committee has outlined about 6 to 8 uses and are exploring the costs and benefits. A representative for the developer expressed the intent of the property to be for single family homes and equestrian uses. The developer also made some estimates of tax revenues for the committee. Attorney Kroesser added to the

discussion that the prospective development seeks to establish a license agreement with Essex County Trails Association (ECTA) to ensure continue access to the trails.

The Board also had a discussion about the term “easement.” J. Orlando noted that an easement is tied to a specific location and ties the homeowner’s property to a secondary owner. It is a very binding form of agreement. The term may be confused with access and/or access agreement. Attorney Kroesser noted that very few areas in town have formal easements for trail access. K. Cheetham also reminded the group that during a review of an ANR the Planning Board does not have any authority to negotiate these types of agreements. Conditional agreements are usually the result of a site plan review and/or special permit process.

- Housing Production Plan – K. Cheetham forwarded the revised draft Housing Production Plan to members of the Board. C. Woods felt that some of the recommendations may not be in concert with the character of Hamilton. She asked that the Board review the document and schedule a time to fully discuss it. P. Clark remained concerned about classifying existing affordable homes with the state. He also agreed that the Board should host a public hearing on the document to secure public comment prior to any endorsement by the Planning Board or Selectmen. The Board agreed that the Affordable Housing Trust should present the plan at a future meeting of the Planning Board.
- Other – E. Howard mentioned that he would like to prepare a presentation on water pollution at an upcoming meeting of the Board. He also would like to have a discussion at some point on the topic of medical marijuana.

**Approval of Minutes** – E. Howard made a motion to approve the minutes of Jan. 29, 2013, Feb. 5, 2013 and March 5, 2013 as presented. J. Orlando seconded. All voted in favor.

**Adjourn** – At 9:00 PM R. Mitchell made a motion to adjourn. B. Stein seconded. All voted in favor.